

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure reports that pursuant to Senate Rule 55, the following amendments are to be made to Engrossed House Bill 1121.

- 1 Page 3, between lines 25 and 26, begin a new paragraph
- 2 and insert:
- 3 "SECTION 3. IC 5-14-3-4.4 IS ADDED TO THE
- 4 INDIANA CODE AS A NEW SECTION TO READ AS
- 5 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 4.4. (a)**
- 6 **Except as provided in subsection (b), records relating to**
- 7 **negotiations between:**
- 8 **(1) persons required to prepare an annual report**
- 9 **under IC 23-1-53-1(c), IC 23-17-27-6(c), or**
- 10 **IC 30-4-5-12(e); and**
- 11 **(2) industrial, research, or commercial prospects;**
- 12 **are exempted from section 3 of this chapter at the**
- 13 **discretion of the person required to prepare the annual**
- 14 **report if the records are created while negotiations are in**
- 15 **progress.**
- 16 **(b) Records relating to a development agreement**
- 17 **payment (as defined in IC 23-1-20-6.2) made by a person**
- 18 **specified under subsection (a)(1) to an industrial, a**
- 19 **research, or a commercial prospect shall be available for**
- 20 **inspection and copying under section 3 of this chapter**
- 21 **after negotiations with that prospect have terminated.**
- 22 **(c) Subject to subsection (b), the exemption from**
- 23 **disclosure under subsection (a) applies to the attorney**
- 24 **general if the attorney general requests to inspect an**
- 25 **annual report under IC 23-1-53-1(d), IC 23-17-27-6(d), or**
- 26 **IC 30-4-5-12(f).**

1 SECTION 4. IC 23-1-20-6.1 IS ADDED TO THE
2 INDIANA CODE AS A NEW SECTION TO READ AS
3 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 6.1.**

4 **"Development agreement" means an agreement that:**

5 **(1) is between:**

6 **(A) the direct or indirect holder of an owner's**
7 **license issued under IC 4-33 or an operating agent**
8 **contract (as defined in IC 4-33-2-14.6); and**

9 **(B) either:**

10 **(i) a person; or**

11 **(ii) a unit of local government; and**

12 **(2) sets forth the holder's financial commitments to**
13 **support economic development in a unit or a**
14 **geographic region.**

15 SECTION 5. IC 23-1-20-6.2 IS ADDED TO THE
16 INDIANA CODE AS A NEW SECTION TO READ AS
17 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 6.2.**

18 **"Development agreement payment" means any payment**
19 **that a direct or indirect holder of:**

20 **(1) an owner's license under IC 4-33; or**

21 **(2) an operating agent contract (as defined in**
22 **IC 4-33-2-14.6);**

23 **is required to make under a development agreement.**

24 SECTION 6. IC 23-1-53-1 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 1. (a)**

26 On written request of any shareholder, a corporation shall
27 prepare and mail to the shareholder annual financial
28 statements, which may be consolidated or combined
29 statements of the corporation and one (1) or more of its
30 subsidiaries, as appropriate, that include a balance sheet as of
31 the end of the fiscal year most recently completed, an income
32 statement for that year, and a statement of changes in
33 shareholders' equity for that year unless that information
34 appears elsewhere in the financial statements. If financial
35 statements are prepared for the corporation on the basis of
36 generally accepted accounting principles, the annual financial
37 statements must also be prepared on that basis.

38 (b) If the annual financial statements are reported upon by
39 a public accountant, the public accountant's report must
40 accompany them. If not, the statements must be accompanied
41 by a statement of the president or the person responsible for
42 the corporation's accounting records:

43 **(1) stating the person's reasonable belief whether the**
44 **statements were prepared on the basis of generally**
45 **accepted accounting principles and, if not, describing the**
46 **basis of preparation; and**

47 **(2) describing any respects in which the statements were**
48 **not prepared on a basis of accounting consistent with the**
49 **statements prepared for the preceding year.**

1 (c) If a corporation is a recipient of a local development
2 agreement payment, the corporation shall prepare an
3 annual report containing the following information
4 before February 1 of each year:

5 (1) A verified accounting of all accounts associated
6 with local development agreement payments received
7 in the preceding calendar year.

8 (2) An itemized list of all disbursements of local
9 development agreement payments made to any
10 person exceeding five thousand dollars (\$5,000) in the
11 aggregate during the preceding calendar year. The
12 itemized list must include:

13 (A) the legal name of the recipient of a
14 disbursement;

15 (B) the date of each disbursement;

16 (C) the amount of each disbursement; and

17 (D) the purpose of each disbursement.

18 (d) The principal officer of a corporation subject to
19 subsection (c) shall annually file with the attorney general
20 a verified written certification before March 1 stating
21 that an annual report has been prepared showing at least
22 the items listed in subsection (c). The certification must
23 state that the annual report is available to the attorney
24 general upon request.

25 SECTION 7. IC 23-17-2-15.1 IS ADDED TO THE
26 INDIANA CODE AS A NEW SECTION TO READ AS
27 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 15.1.**

28 **"Development agreement" means an agreement that:**

29 (1) is between:

30 (A) the direct or indirect holder of an owner's
31 license issued under IC 4-33 or an operating agent
32 contract (as defined in IC 4-33-2-14.6); and

33 (B) either:

34 (i) a person; or

35 (ii) a unit of local government; and

36 (2) sets forth the holder's financial commitments to
37 support economic development in a unit or a
38 geographic region.

39 SECTION 8. IC 23-17-2-15.2 IS ADDED TO THE
40 INDIANA CODE AS A NEW SECTION TO READ AS
41 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 15.2.**

42 **"Development agreement payment" means any payment**
43 **that a direct or indirect holder of:**

44 (1) an owner's license under IC 4-33; or

45 (2) an operating agent contract (as defined in
46 IC 4-33-2-14.6);

47 **is required to make under a development agreement.**

48 SECTION 9. IC 23-17-27-6 IS AMENDED TO READ AS
49 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 6. (a)**

1 Except as provided in articles of incorporation or bylaws of a
2 religious corporation, a corporation upon written demand
3 from a member shall furnish the member the corporation's
4 latest annual financial statements, which may be consolidated
5 or combined statements of the corporation and the
6 corporation's subsidiaries or affiliates, as appropriate, that
7 include a balance sheet as of the end of the fiscal year and
8 statement of operations for that year. If financial statements
9 are prepared for the corporation on the basis of generally
10 accepted accounting principles, the annual financial
11 statements must also be prepared on that basis.

12 (b) If annual financial statements are reported upon by a
13 certified public accountant, the accountant's report must
14 accompany the statements. If annual financial statements are
15 not reported upon by a certified public accountant, the
16 statements must be accompanied by the statement of the
17 president or the person responsible for the corporation's
18 financial accounting records that does the following:

19 (1) States the president's or other person's reasonable
20 belief as to whether the statements were prepared on the
21 basis of generally accepted accounting principles and, if
22 not, describes the basis of preparation.

23 (2) Describes any respects in which the statements were
24 not prepared on a basis of accounting consistent with the
25 statements prepared for the preceding year.

26 **(c) If a corporation is a recipient of a local development**
27 **agreement payment, the corporation shall prepare an**
28 **annual report containing the following information**
29 **before February 1 of each year:**

30 **(1) A verified accounting of all accounts associated**
31 **with local development agreement payments received**
32 **in the preceding calendar year.**

33 **(2) An itemized list of all disbursements of local**
34 **development agreement payments made to any**
35 **person exceeding five thousand dollars (\$5,000) in the**
36 **aggregate during the preceding calendar year. The**
37 **itemized list must include:**

38 **(A) the legal name of the recipient of a**
39 **disbursement;**

40 **(B) the date of each disbursement;**

41 **(C) the amount of each disbursement; and**

42 **(D) the purpose of each disbursement.**

43 **(d) The principal officer of a corporation subject to**
44 **subsection (c) shall annually file with the attorney general**
45 **a verified written certification before March 1 stating**
46 **that an annual report has been prepared showing at least**
47 **the items listed in subsection (c). The certification must**
48 **state that the annual report is available to the attorney**
49 **general upon request."**

1 Page 9, between lines 2 and 3, begin a new paragraph and
2 insert:

3 "SECTION 16. IC 30-4-1-2, AS AMENDED BY
4 P.L.61-2008, SECTION 13, IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 2. As
6 used in this article:

7 (1) "Adult" means any person eighteen (18) years of age
8 or older.

9 (2) "Affiliate" means a parent, descendant, spouse,
10 spouse of a descendant, brother, sister, spouse of a
11 brother or sister, employee, director, officer, partner,
12 joint venturer, a corporation subject to common control
13 with the trustee, a shareholder, or corporation who
14 controls the trustee or a corporation controlled by the
15 trustee other than as a fiduciary, an attorney, or an agent.

16 (3) "Beneficiary" has the meaning set forth in
17 IC 30-2-14-2.

18 (4) "Breach of trust" means a violation by the trustee of
19 any duty which is owed to the settlor or beneficiary.

20 (5) "Charitable trust" means a trust in which all the
21 beneficiaries are the general public or organizations,
22 including trusts, corporations, and associations, and that
23 is organized and operated wholly for religious,
24 charitable, scientific, public safety testing, literary, or
25 educational purposes. The term does not include
26 charitable remainder trusts, charitable lead trusts, pooled
27 income funds, or any other form of split-interest
28 charitable trust that has at least one (1) noncharitable
29 beneficiary.

30 (6) "Court" means a court having jurisdiction over trust
31 matters.

32 (7) "Income", except as otherwise stated in a trust
33 agreement, has the meaning set forth in IC 30-2-14-4.

34 (8) "Income beneficiary" has the meaning set forth in
35 IC 30-2-14-5.

36 (9) "Inventory value" means the cost of property to the
37 settlor or the trustee at the time of acquisition or the
38 market value of the property at the time it is delivered to
39 the trustee, or the value of the property as finally
40 determined for purposes of an estate or inheritance tax.

41 (10) "Minor" means any person under the age of
42 eighteen (18) years.

43 (11) "Person" has the meaning set forth in IC 30-2-14-9.

44 (12) "Personal representative" means an executor or
45 administrator of a decedent's or absentee's estate,
46 guardian of the person or estate, guardian ad litem or
47 other court appointed representative, next friend, parent
48 or custodian of a minor, attorney in fact, or custodian of
49 an incapacitated person (as defined in IC 29-3-1-7.5).

1 (13) "Principal" has the meaning set forth in
2 IC 30-2-14-10.

3 (14) "Qualified beneficiary" means:

4 (A) a beneficiary who, on the date the beneficiary's
5 qualification is determined:

6 (i) is a distributee or permissible distributee of trust
7 income or principal;

8 (ii) would be a distributee or permissible distributee
9 of trust income or principal if the interest of the
10 distributee described in item (i) terminated on that
11 date;

12 (iii) would be a distributee or permissible
13 distributee of trust income or principal if the trust
14 terminated on that date;

15 (iv) has sent the trustee a request for notice;

16 (v) is a charitable organization expressly designated
17 to receive distributions under the terms of a
18 charitable trust;

19 (vi) is a person appointed to enforce a trust for the
20 care of an animal under IC 30-4-2-18; or

21 (vii) is a person appointed to enforce a trust for a
22 noncharitable purpose under IC 30-4-2-19; or

23 (B) the attorney general, if the trust is a charitable
24 trust having its principal place of administration in
25 Indiana.

26 (15) "Remainderman" means a beneficiary entitled to
27 principal, including income which has been accumulated
28 and added to the principal.

29 (16) "Settlor" means a person who establishes a trust
30 including the testator of a will under which a trust is
31 created.

32 (17) "Trust estate" means the trust property and the
33 income derived from its use.

34 (18) "Trust for a benevolent public purpose" means a
35 charitable trust (as defined in subdivision (5)), a
36 split-interest trust (as defined in Section 4947 of the
37 Internal Revenue Code), a perpetual care fund or an
38 endowment care fund established under IC 23-14-48-2, a
39 prepaid funeral plan or funeral trust established under
40 IC 30-2-9, a funeral trust established under IC 30-2-10, a
41 trust or an escrow account created from payments of
42 funeral, burial services, or merchandise in advance of
43 need described in IC 30-2-13, and any other form of
44 split-interest charitable trust that has both charitable and
45 noncharitable beneficiaries, including but not limited to
46 charitable remainder trusts, charitable lead trusts, and
47 charitable pooled income funds.

48 (19) "Trust property" means property either placed in
49 trust or purchased or otherwise acquired by the trustee

1 for the trust regardless of whether the trust property is
2 titled in the name of the trustee or the name of the trust.
3 (20) "Trustee" has the meaning set forth in
4 IC 30-2-14-13.

5 **(21) "Development agreement" means an agreement**
6 **that:**

7 **(A) is between:**

8 **(i) the direct or indirect holder of an owner's**
9 **license issued under IC 4-33 or an operating**
10 **agent contract (as defined in IC 4-33-2-14.6);**
11 **and**

12 **(ii) either a person or a unit of local government;**
13 **and**

14 **(B) sets forth the holder's financial commitments**
15 **to support economic development in a unit or a**
16 **geographic region.**

17 **(22) "Development agreement payment" means any**
18 **payment that a direct or indirect holder of:**

19 **(A) an owner's license under IC 4-33; or**

20 **(B) an operating agent contract (as defined in**
21 **IC 4-33-2-14.6);**

22 **is required to make under a development agreement.**

23 SECTION 17. IC 30-4-5-12 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 12.
25 (Accounting by Trustees)

26 (a) Unless the terms of the trust provide otherwise or
27 unless waived in writing by an adult, competent beneficiary,
28 the trustee shall deliver a written statement of accounts to
29 each income beneficiary or his personal representative
30 annually. The statement shall contain at least:

31 (1) all receipts and disbursements since the last
32 statement; and

33 (2) all items of trust property held by the trustee on the
34 date of the statement at their inventory value.

35 (b) This subsection applies to a charitable trust with assets
36 of at least five hundred thousand dollars (\$500,000). The
37 trustee of a charitable trust shall annually file a verified
38 written certification with the attorney general stating that a
39 written statement of accounts has been prepared showing at
40 least the items listed in section 13(a) of this chapter. The
41 certification must state that the statement of accounts is
42 available to the attorney general and any member of the
43 general public upon request. A charitable trust may not be
44 exempted from this requirement by a provision in a will, trust
45 agreement, indenture, or other governing instrument. This
46 subsection does not prevent a trustee from docketing a
47 charitable trust to finalize a written statement of account or
48 any other lawful purpose in the manner provided in this
49 article. However, this subsection does not apply to an

1 organization that is not required to file a federal information
2 return under Section 6033(a)(2)(A)(i) or Section
3 6033(a)(2)(A)(ii) of the Internal Revenue Code.

4 (c) Upon petition by the settlor, a beneficiary or his
5 personal representative, a person designated by the settlor to
6 have advisory or supervisory powers over the trust, or any
7 other person having an interest in the administration or the
8 benefits of the trust, including the attorney general in the case
9 of a trust for a benevolent public purpose, the court may
10 direct the trustee to file a verified written statement of
11 accounts showing the items listed in section 13(a) of this
12 chapter. The petition may be filed at any time, provided,
13 however, that the court will not, in the absence of good cause
14 shown, require the trustee to file a statement more than once
15 a year.

16 (d) If the court's jurisdiction is of a continuing nature as
17 provided in IC 30-4-6-2, the trustee shall file a verified
18 written statement of accounts containing the items shown in
19 section 13(a) of this chapter with the court biennially, and the
20 court may, on its own motion, require the trustee to file such
21 a statement at any other time provided there is good cause for
22 requiring a statement to be filed.

23 **(e) If a charitable trust or trust for a benevolent public**
24 **purpose is a recipient of a local development agreement**
25 **payment, the trustee shall prepare an annual report**
26 **containing the following information before February 1**
27 **of each year:**

28 **(1) A verified accounting of all accounts associated**
29 **with local development agreement payments received**
30 **in the preceding calendar year.**

31 **(2) An itemized list of all disbursements of local**
32 **development agreement payments made to any**
33 **person exceeding five thousand dollars (\$5,000) in the**
34 **aggregate during the preceding calendar year. The**
35 **itemized list must include:**

36 **(A) the legal name of the recipient of a**
37 **disbursement;**

38 **(B) the date of each disbursement;**

39 **(C) the amount of each disbursement; and**

40 **(D) the purpose of each disbursement.**

41 **(f) The trustee of a trust subject to subsection (e) shall**
42 **annually file with the attorney general a verified written**
43 **certification before March 1 stating that an annual report**

44 **has been prepared showing at least the items listed in**

- 1 **subsection (e). The certification must state that the**
- 2 **annual report is available to the attorney general upon**
- 3 **request."**
- 4 Renumber all SECTIONS consecutively.
 (Reference is to HB 1121 as reprinted March 24, 2009.)

and when so amended that said bill do pass.

Senator LONG